

REMARKS/ARGUMENTS

The foregoing amendment and the following arguments are provided to impart precision to the claims, by more particularly pointing out the invention, rather than to avoid prior art.

35 U.S.C. § 103(a) Rejections

Examiner rejected claims 1, 2, 5, 6, 10, 11, 14, 15, 19, 20, 23, and 24 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 5,732,282 (hereinafter “Provino”) in view of Admitted Prior Art (APA.)

In particular, the examiner states that applicant has certain admissions of prior art in the background section of applicant’s application. More specifically, the examiner appears to state the following statement is APA: “an at least one device that has already initialized may acquire component and system information that is useful to and should be provided to at least one other device . . .” Applicant respectfully disagrees.

The statement in applicant’s background section is clearly not an admission of prior art. Rather the statements are an acknowledgment of the shortcomings of the prior art, and the problems that exists as a result. Nowhere does applicant state or admit that the statements are prior art. Instead, applicant stated the actions “should” be done, clearly stating they are not done, but there is a need for the actions to be done.

Not all text in the “Background” section of an application is prior art. In the Background section, “where applicable, the problems involved in the prior

art or other information disclosed which are solved by the applicant's invention should be indicated." (MPEP, section 608.01(c)).

Therefore, considering Provino does not disclose all of applicant's claimed limitations, and the APA is not to be used, applicant's claims are patentable over Provino.

CONCLUSION

Applicants respectfully submit the present application is in condition for allowance. If the Examiner believes a telephone conference would expedite or assist in the allowance of the present application, the Examiner is invited to call John Ward at (408) 720-8300, x237.

Authorization is hereby given to charge our Deposit Account No. 02-2666 for any charges that may be due.

Respectfully submitted,

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